

Topsfield Conservation Commission

Meeting of Wednesday, November 4, 2009

Proctor School Library

Present: Commissioners George Hall (Chair), Holger Luther (Vice-Chair), Jim MacDougall, Jennie Merrill, Jud Pratt, and Mark Erickson; Administrator Lana Spillman; Minutes Secretary Catherine Tinsley.

Absent: None

Acronyms:

TCC – Topsfield Conservation Commission

DEP – Department of Environmental Protection

NoI – Notice of Intent

CoC – Certificate of Compliance

ORAD – Order of Resource Area Delineation

BOS – Board of Selectmen

OoC – Order of Conditions

EO – Enforcement Order

BVW – Bordering Vegetated Wetland

The meeting was called to order at 7:04 p.m. with a quorum present.

OPEN MEETING:

TCC signed bills, authorizations and time sheets.

PUBLIC HEARINGS:

Continuation NoI 307-0653: 20 Wilmor Road, (Map10, Lot 4), Pratt/The Neve-Morin Group, Inc.

Pratt recused himself and left the room. Greg Hochmuth of The Neve-Morin Group presented.

Luther had submitted a site visit report for the site visit made the previous Saturday. Hochmuth explained that the project has been redesigned and scaled back with the revised plan. There is floodplain in the rear yard. The proposed construction area has been decreased by about half, the mitigation area has been kept the same, and an infiltration trench has been added around the impervious area. Piles of debris in the wetland are to be removed and the area is to be loamed and seeded. Hochmuth explained that the proposal is to remove two mature trees and some shrubs and to plant about five trees and some shrubs. The Commission questioned how the proposed restoration/mitigation area would comply with The Rivers Act requirements and emphasized that, to the maximum extent feasible, there should be a 100-foot wide corridor of natural vegetation.

Luther moved to close the hearing. The motion was seconded and passed unanimously.

Luther moved to approve the plan as presented and permit the work to proceed subject to the usual conditions plus that any material in wetlands that does not belong there would be removed. The motion was seconded and discussion ensued about conditions for the proposed mitigation area.

Hall moved to amend the motion to include a condition that the undisturbed edge of vegetation be marked in the field and documented with GPS coordinates, the undisturbed area lost and disturbed area to be restored to be calculated, with pre- and post-width and area documented, and photographs of vegetation in that area to be submitted for a two years as follow-up. 3:1 mitigation is expected, setting a precedent, and Conservation markers are to be placed along the edge of the mitigation area, with their locations by GPS documented. Luther seconded the motion to amend and the motion passed with a unanimous vote.

The amended motion passed unanimously.

Hochmuth stated that he would be submitting a revised fee calculation sheet with a request for partial reimbursement of the Bylaw fee.

Amended OoC 307-0627: 35 Main Street, (Map 41, Lot 34), Topsfield Mac Realty Trust/DiBlasi
 Proof of abutter notification had been submitted previously. The legal ad was read. Silvana DiBlasi represented Topsfield Mac Realty Trust. The request was after the fact for TCC to accept a plan revision (sketch modification of the engineered plan) allowing regular pavement (not the pervious pavement approved with the OoC). Along with this request was a written request for a waiver of the Bylaw filing fee (\$100). Silvana explained the change from porous pavement to regular pavement and engineering fees that had been paid. Spillman reported on her site visit that afternoon, stating that the conventional pavement appears to be appropriately pitched toward the stormwater structure. She recommended issuance of the CoC and a partial reduction of the Bylaw fee.

Erickson moved to cut the fee to \$50 to cover the Commission's costs. The motion was seconded and passed unanimously.

Erickson moved to close the hearing and issue an Amended OoC under the Act and Bylaw referencing the most recently revised plan. The motion was seconded and passed unanimously.

Amended OoC 307-0629: 12 Boston Street/English Commons, (Map 81, Lot 1), English Commons LLC

Proof of abutter notification had been submitted previously. The legal ad was read. The request was for TCC to accept the plan recently approved by the Planning Board, so that everyone would be using the same plan. Alan Berry and attorney Chris Latham represented English Commons LLC. Berry explained the changes, including some grading modifications near Route 1 and shifting the pond closer to the entrance road by 5-10 feet to save the stone wall and trees, and added that there were no changes to the stormwater system.

Luther moved to close the hearing. The motion was seconded and passed unanimously.

Erickson moved to issue the Amended Order under the Act and the Bylaw referencing the Plan dated 6/17/2009 with Revisions October 6, 2009. The motion was seconded and passed unanimously.

RDA 2009-15: 7 Bare Hill Road, (Map 17, Lot 40), Tim Perkins/Hancock Associates

Merrill read the legal ad. Owners Jim and Tim Perkins were present. Richard Doherty of Hancock Associates representing, submitted green cards as proof of abutter notification.

The proposal is to perform soils testing (for a second time) with access across an Intermittent Stream. In accordance with TCC Policy 2005-01, a Bylaw NoI was filed and Bylaw OoC issued (and now is expired) to cross the stream for the first soils testing. Doherty explained where the testing would be done and described the access wood road and stream crossing. He explained that they do not have any access off of Brady Lane now to get to the testing site. Soil testing would be outside the Buffer Zone and within Riverfront Area.

Erickson moved to issue Negative Determination under the Act and the Bylaw contingent on use of a small, non-tracked vehicle. The motion was seconded and passed unanimously.

ENFORCEMENT, APPEAL REPORTS, UPDATES:

Enforcement Order, Violation Notice & Bylaw Ticket #2007-11: 270 Boston Street, (Map 41, Lot 87) Bear Albright – update and discussion

Spillman reported that she made a site visit the previous week with Mike DeRosa of DeRosa Environmental Consulting and the site looks good, although Mr. Albright should be reminded that the area should not be mowed. Mr. Albright has not reported back to TCC yet; that discussion was continued to the November 18 TCC meeting.

2nd Amended Enforcement Order #4: 215 Washington Street, (Map 46, Lot 7), Galka – update and discussion

Spillman reported that she left a phone message for Joe Orzel the previous week about the TCC decision, but had not written the letter yet. Today she received a call from Orzel, who stated that he would like the Commission to reconsider the proposed modifications suggested last week. TCC summarized that Albright needs to do what is required in the EO.

Pratt moved to not reconsider the modifications TCC made the week of October 28th. The motion was seconded and passed unanimously.

Hall moved to inform Orzel that if the Commission does not have proof of recording by Friday, November 13th, the Administrator is authorized to issue fines on a daily basis. The motion was seconded and passed unanimously.

Violation Notice #2009-01: 72 Hill Street, (Map 69, Lot 16), Malinowski – update

Spillman updated the TCC. A request for an Amended OoC (plan revision) is on the November 18th agenda. Part of the request is to have the option of using erosion control mats instead of the currently proposed boulders on the septic system slope. Spillman had made a site visit earlier in the day and reported that work was in progress on the (steep) slope just up from the sedimentation control line. TCC requested that she ask them what they plan to do for the snow forecast for the end of the week.

SORAD 307-0640: 57 Candlewood Drive & 109R Perkins Row, (Map 43, Lot 7), Skeffington

This was discussed in Executive Session.

REQUESTS:

OoC 307-0647: ECTA Trail work at Bradley Palmer – request to install third beaver deceiver.

Spillman suggested granting approval for the beaver deceiver under the trail maintenance OoC.

MacDougall would like to see the area.

Erickson moved to authorize installation of the beaver deceiver contingent on a site inspection by a subcommittee of the Commission and their approval. The motion was seconded and passed unanimously.

MacDougall and Luther will coordinate with Carol Lloyd of ECTA to make a site visit of the area.

Continuation CoC 307-0393: 119 Hill Street, (Map 68, Lot 5), Sanidas

Spillman reported that she made a site visit that afternoon and found the Conservation Posts securely installed. She recommended issuance.

Luther moved to issue a Certificate of Compliance with Continuing Conditions under the Act and the Bylaw. The motion was seconded and passed unanimously.

Continuation CoC 307-0433: 131 Haverhill Road, (Maps 2 & 5, Lots 10 & 15), Topsfield Beach Association

This item will not be placed on the agenda again until the complete application for a CoC has been submitted.

OLD BUSINESS, UPDATES, & MISCELLANEOUS:

General Permit – Discussion

Hall is receiving comments from the Commission and staff about the proposed General Permit process.

207 Boston Street, Topsfield Fairgrounds

There was no update..

ADMINISTRATOR'S REPORT:

- **General Permit**

Spillman proposed scheduling a hearing for the Bylaw Regulations change.

TCC asked that the meeting dates in December be changed to December 2 and December 16, and that the hearing on the General Permit Schedule Hearing for Regulations Change

Pratt will set up a meeting with the BoS for Hall and himself to discuss the General Permit.

- **Reorder Conservation Placards**

The color may be changed; samples will be brought to the next TCC meeting.

OTHER:

Pratt proposed a change to the Bylaw concerning Intermittent Streams. He distributed a list of his proposed deletions and a copy of a page from the MACC Handbook.

EXECUTIVE SESSION: Current litigation

- **307-0638: 57 Candlewood/109R Perkins Row**, (Map 43, Lot 7), Skeffington – Superior Court

- **Enforcement Orders: Cross Street**, (Map 62, Lot 2) Nash

Luther moved to go into Executive Session to discuss strategy concerning the Skeffington appeals and the Nash properties, and to adjourn directly after the Executive Session. Pratt seconded the motion, which carried unanimously with a roll call vote:

Hall – aye

Luther – aye

MacDougall – aye

Merrill – aye

Pratt – aye

Erickson – aye

The meeting adjourned with a unanimous roll call vote at ~ 9:25 p.m.

Respectfully submitted,

Lana Spillman
Conservation Administrator

Accepted at the TCC meeting on November 17, 2010

Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Commission constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Commission as to the completeness or accuracy of such statements.